



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: December 20, 2021
MOAHR Docket No.: 21-005474
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on 12/14/2021. Petitioner personally appeared and testified. The Department of Health and Human Services (Department) was represented by Taylor Glenn, HC.

Department Exhibit A.66 was offered and admitted into the record.

ISSUE

Did the Department properly calculate Petitioner's FAP allotment?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner was a FAP beneficiary.
2. In October 2021 Petitioner completed a mid-certification which showed that Petitioner's spouse was now living with him in his household.
3. On 11/15/2021 the Department issued a Notice of Case Action reducing Petitioner's FAP benefits to [REDACTED] per month based on a group size of 2. Exhibit A.41; 57.
4. On 11/15/2021 Petitioner filed a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Specific policy applicable to the case herein is found in RFT 250; BEM 115, 545, 554, and 212; BAM 210, 600; 7 CFR 273.1.

In this case, unrefuted evidence of record indicates that at the time of the 11/15/2021 Notice of Case Action, Petitioner's spouse resided with Petitioner. Petitioner testified to the same. Also unrefuted is the FAP budget used in calculating Petitioner's [REDACTED] per month allotment. See Exhibit A.57. Petitioner did not dispute any of the amounts or calculations in the budget.

Petitioner objected to having his spouse included in his group arguing that they purchase and prepare separately. However, federal and state law does not allow mandatory FAP group members to be treated separately for FAP composition based when a member is a mandatory group member. A spouse is a mandatory group member. BEM 554; 7 CFR 273.1.

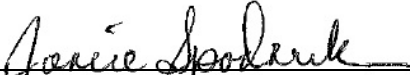
Petitioner argued that his spouse does not contribute to household expenses. Group composition does not exclude mandatory group members based on their contributions to household expenses. Petitioner offered no law, policy or other authority that would allow him to exclude his spouse from the FAP budget.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it reduced Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JS/ml



Janice Spodarek
Administrative Law Judge
for Elizabeth Hertel, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Genesee-Clio-Hearings
BSC2
M. Holden
D. Sweeney
MOAHR

Petitioner – Via USPS:

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